

SEP 15 2005

FACSIMILE CERTIFICATE

I hereby certify that this correspondence and every paper referred to therein as being enclosed is being filed via facsimile to the Office of Initial Patent Examination designated fax number (571) 273-8300 on the date indicated below.

Date: September 15, 2005By: Jennifer Archer
Jennifer Archer

7 pages

Attorney's Docket No.: 100717-600

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : Klaus-Helmut MÜLLER et al.
SERIAL NO. : 10/603,997
CUSTOMER NO. : 27384
FILED : June 25, 2003
FOR : HERBICIDAL SULPHONYL AMINO(THIO)CARBONYL COMPOUNDS
ART UNIT : 1625
EXAMINER : Patricia L. Morris

Office of Initial Patent Examination's
Filing Receipt Corrections
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CORRECTED FILING RECEIPT

Sir:

A Filing Receipt has been received by Applicant's attorney for the above-captioned application (copy attached).

In accordance with the Petition Decision mailed April 14, 2005 (copy attached), the filing date should be corrected to **June 25, 2003**.

Please issue a corrected filing receipt at your earliest convenience.

Respectfully submitted,
NORRIS McLAUGHLIN & MARCUS, P.A.

By

Kurt G. Briscoe Reg. No. 33,141
Attorney for Applicant(s)
875 Third Avenue - 18th Floor
New York, New York 10022



UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
CENTRAL FAX CENTER

SEP 15 2005

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
Ogpo.uspto.gov

APPL NO.	FILING OR 371 (C) DATE	ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/603,997	11/05/2003	1625	750	Bayer 10.019.2 REI	K6B	6	1

100717-27/6

27384

NORRIS, MCLAUGHLIN & MARCUS, PA
875 THIRD STREET
18TH FLOOR
NEW YORK, NY 10022

June 25, 2003

CONFIRMATION NO. 9703

UPDATED FILING RECEIPT

OC000000015891761

OC000000015891761

Date Mailed: 04/28/2005

Receipt is acknowledged of this reissue Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Klaus-Helmut Muller, Dusseldorf, GERMANY;
Rolf Kirsten, Monheim, GERMANY;
Ernst Rudolf F. Gesing, Erkrath, GERMANY;
Joachim Kluth, Langenfeld, GERMANY;
Mark Wilhelm Drewes, Langenfeld, GERMANY;
Kurt Findeisen, Leverkusen, GERMANY;
Johannes Rudolf Jansen, Monheim, GERMANY;
Klaus Konig, Odenthal, GERMANY;
Han-Jochem Riebel, Selters, GERMANY;
Otto Schallner, Monheim, GERMANY;
Markus Dollinger, Leverkusen, GERMANY;
Hans-Joachim Santel, Leverkusen, GERMANY;

Power of Attorney: The patent practitioners associated with Customer Number 27384.

Domestic Priority data as claimed by applicant

This application is a REI of 09/223,246 12/30/1998 PAT 6,251,831
which is a CON of 09/006,686 01/08/1998 ABN
which is a CIP of PCT/EP96/02826 06/28/1996

Foreign Applications

GERMANY 195 25 162 07/11/1995
EUROPEAN PATENT OFFICE (EPO) 96 02826 06/28/1996

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Herbicidal sulphonylamino(thio) carbonyl compounds

Preliminary Class

504

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



UNITED STATES PATENT AND TRADEMARK OFFICE

100717-27/600

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

NORRIS, MCLAUGHLIN & MARCUS, PA
875 THIRD STREET
18TH FLOOR
NEW YORK, NY 10022

COPY MAILED

APR 14 2005

In re Application of :
Muller, et al. :
Application No. 10/603,997 : ON PETITION
June 25, 2003 :
Docket No.: Bayer 10.019.2 REI :

OFFICE OF PETITIONS

This is a decision on the renewed "PETITION UNDER 37 CFR § 1.17(h) - INCORRECT FILING DATE ASSIGNED," filed September 16, 2004, wherein petitioners request that the above-identified application be accorded a filing date of June 25, 2003.

The petition is GRANTED.

The application was received by the USPTO on June 25, 2003. On September 5, 2003, a Notice of Incomplete Reissue Application was mailed indicating, *inter alia*, that the application had not been accorded a filing date because the specification was missing and the application did not include at least one claim in accordance with 35 USC 112. The Notice indicated that the filing date would be the date of receipt of the required specification and at least one claim. Any assertion that the specification and at least one claim were submitted or were not necessary for a filing date must be by way of petition (along with required petition fee).

On November 5, 2003, a response to the Notice of Incomplete Reissue Application was submitted. The response included, *inter alia*, a specification, including claims. On February 9, 2004, a Notice to File Corrected Application Papers was mailed. The Notice to File Corrected Application Papers indicated, *inter alia*, that the application had been accorded a filing date of November 5, 2003, but that pages 407-408 of the specification appeared to have been omitted. The Notice to File Corrected Application Papers permitted applicant to either: (1) promptly establish prior receipt in the PTO of the omitted items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted item(s) in a and accept the date of such submission as the application filing

Application No. 0/603,997

2

date. An applicant asserting that the items in question were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

On April 5, 2004, a petition was filed wherein it was argued that the response submitted November 5, 2003 was complete in that pages 407 and 408 were included. The petition included a return postcard date stamped November 5, 2003 by the USPTO. Petitioners argued that the postcard date stamped November 5, 2003 served as evidence of the submission of the specification on November 5, 2003, including pages 407-408. The petition was submitted untimely as the Notice mailed February 9, 2004 set forth a non-extendible two month period of time for response. Nonetheless, the petition was treated on the merits in the decision mailed July 16, 2004.

The instant renewed petition was timely submitted September 16, 2004. The arguments and evidence submitted by petitioners on renewed petition have been considered and found persuasive. The USPTO file is the official record of the papers originally filed in this application. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence.

The Notice mailed September 5, 2003 indicated that a specification had not been received and thus the application was not accorded a filing date. The response submitted November 5, 2004 was not accompanied by a petition, petition fee, and evidence of receipt of the items cited as omitted in the Notice, specifically, a copy of a return postcard. Thus, upon submission of the omitted items, the application was accorded a later filing date of November 5, 2003. Furthermore, a Notice to Correct Application Papers was mailed February 9, 2004 indicating, *inter alia*, that pages 407-408 appeared to have been omitted from the submission dated November 5, 2003.

The petition submitted April 4, 2004 included a copy of the return postcard date stamped November 5, 2003. The postcard, as indicated in the decision mailed July 16, 2004, was not specifically itemized in accordance with MPEP 503. Thus, the

Application No. 05/603,997

3

postcard was not deemed *prima facie* evidence of receipt of the pages in question. The petition did not include evidence that the specification was not omitted from the application papers submitted June 25, 2003.

The instant renewed petition, however, includes a copy of a return receipt postcard date stamped June 25, 2003, the date of submission of the application papers. The postcard is not specifically itemized in accordance with MPEP 503 insofar as specific number of pages for each component referenced thereon. However, the postcard indicates the enclosure of nine components, specifically referencing "Specification and Claims in double column copy of patent format."

It is the practice of the USPTO that the person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

There is no indication on the postcard date stamped September 25, 2003 that the application papers when received on June 25, 2003 by the USPTO were reviewed and that the specification was found to be missing because presumably had the specification been absent, such would have been indicated by the USPTO on the postcard returned to petitioners. Accordingly, the evidence when viewed in the light most favorable to petitioners, would seem to establish that the application was complete, i.e., specification present, upon submission on June 25, 2003.

Accordingly, the Notices mailed September 5, 2003 and February 9, 2004 are hereby WITHDRAWN and the petition to accord the application a filing date of June 25, 2003 is GRANTED.

Since the original pages 407 and 408 of the specification cannot be located in the Office, a supplied copy will be used for examination purposes.

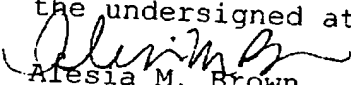
As petitioners have established that the application was complete upon filing, no petition fee is due in connection with this matter. A refund of the previously submitted petition fee of \$130.00 has been requested from the Finance Office on petitioners' behalf.

Application No. 0603,997

4

This application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of June 25, 2003.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.


Alesia M. Brown
Petitions Attorney
Office of Petitions